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CHAIRPERSON JAMES:

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I'm going to ask if Doug Seay would come  
back and just walk us through, perhaps very briefly,  
his introduction to the issue of, that he prepared and  
sent out on Native American gaming, that you will find  
in your briefing books under Tab 11. And with that  
very brief introduction, then I would, I'm going to  
call to the table those panelists for our afternoon  
panel.

16

Thank you, Doug.

17

MR. SEAY: Okay. This will be very brief  
indeed, hopefully I'll keep it to five minutes.

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1           The Indian gaming, Native American gaming,  
2 Tribal gaming, however you wish to describe it, a  
3 fascinating issue.

4           It has a real undeserved obscurity. It was  
5 obscure in my mind at least, certainly not for those in  
6 the industry, or even in competing industries like the  
7 casino industry. But the general public I think is not  
8 very much aware of this particular issue.

9           It is a large as you are well aware and  
10 rapidly growing industry. I've been asked to give an  
11 overview. And this issue is obviously going to be  
12 addressed at greater length later in the year at other  
13 sites.

14           And to begin our framework, it is very  
15 difficult to do for a number of reasons. As you will  
16 see today in this particular panel that we have put  
17 together there are widely, widely, widely ranging views  
18 on this issue, on virtually every aspect of this issue.  
19 But it is not a Tower of Babel, it is people who have

1 real interests that clash at 180 degrees opposed to one  
2 another.

3           The thing that strikes me most about this  
4 issue is how complex it is. I've tackled, as I'm sure  
5 we all have, a number of complex issues in my life, and  
6 this is one of the most complex that I've ever dealt  
7 with. The thing that I would like to impress upon you,  
8 if I may, if I can give a survey of the survey is that  
9 you cannot understand any part of this without  
10 understanding the whole. It all fits together, it all  
11 ties together at some point, and no part can really be  
12 separated out and looked at in isolation. And that  
13 whole is very extensive. Looking at the industry  
14 itself as a subject, as I said before, it is large and  
15 rapidly growing.

16           One of the problems is that the data is  
17 very bad. There are different reporting requirements  
18 for Indian gaming and it's difficult to talk about the  
19 subject in any concrete sense, or even to compare it  
20 intelligently to other gambling activities, simply for

1 the lack of empirical data. About the only thing that  
2 exists is a recent study by the General Accounting  
3 Office, GAO, which I think uses 1995 figures.

4           It is interesting, when it came out, all  
5 the best estimates were off by very large percentage  
6 points. Those who tracked the industry on the outside,  
7 and trying to glean from the limited amount of  
8 information that's available, the actual scale and  
9 extent of the industry were way off and they had to  
10 correct their estimations. But I don't think that that  
11 information deficit has been corrected. There's still  
12 no good reporting requirement put into the legislation,  
13 for that matter. Somebody would have something  
14 concrete to talk about instead of just guesses.

15           The other major thing that I want to  
16 impress upon on you is that almost every issue again,  
17 is a constitutional issue. This is the intersection of  
18 states, federal and tribal law. And like all good  
19 debates each side has a very well developed, very  
20 powerful and quite substantive argument in my

1 estimation. The lawyers are making out very good in  
2 this because almost every issue is being decided by the  
3 federal courts. All the major structural elements of  
4 this industry are driven by the federal courts, not by  
5 the political process necessarily, nor is it simply as  
6 a development of a business.

7           It is, if I may use the phrase, it is on  
8 the cutting edge of federalism. I happen to be one of  
9 the very few people in this country, I think, really  
10 too few, I know that Chairman James and Commissioner  
11 McCarthy have an interest in federalism, but some of  
12 these issues are 200 years old. And are only now  
13 really coming to the fore where people are having to  
14 grapple with them. And as a result you're having broad  
15 issues of constitutional law being decided.

16           I think for anyone interested in politics,  
17 this is a fascinating issue. If you're really  
18 interested in politics, study the Middle East or study  
19 Indian gaming, that would be my advice. And politics,  
20 in many ways, between the executive branch, and the

1 legislative branch in any state. I know in  
2 Massachusetts the Attorney General Scott Harshbarger  
3 who was here today has threatened to sue the Governor  
4 in court, to bring suits against the Governor over a  
5 proposed Indian gaming facility in Fall River, which  
6 has not yet come to pass. But it's just an interesting  
7 type of interaction between the executive branch, and  
8 the legislative branch, between various areas of the  
9 state, those that have gaming and those that don't.  
10 Between tribes and the rest of the state, and even  
11 inter tribal rivalries themselves all in the political  
12 context is quite interesting.

13           The cultural aspect of it, the relationship  
14 of Native Americans to larger American society,  
15 especially the whole idea of assimilation or non  
16 assimilation.     The impact of bringing gambling  
17 interests into traditional societies and the impact of  
18 sudden wealth on peoples who have been historically  
19 economically deprived.     The relationship of  
20 reservations, communities on reservations, which are a

1 very special case in American public life, to the  
2 surrounding communities which is too seldom a good one.

3           The personal stories you hear, the fact  
4 that there are such large sums of money involved and  
5 which can dramatically transform very small and  
6 impoverished tribes into very wealthy ones which is not  
7 the normal case, because most tribes if they gamble at  
8 all it's a small increment to their income. But  
9 nevertheless the potential there is having enormous  
10 impact at least in the debates in some of these tribes  
11 and certainly in the states in which they reside.

12           And just to leave you with the point that  
13 it crosses all boundaries. I'll just give you one  
14 example. The recent coming online of an Internet site  
15 on gambling tests so many different areas. The State  
16 Attorneys General very quickly filed suit for an  
17 injunction, the federal court said they couldn't stop  
18 it. And this brings in advertising: can you  
19 advertise, can you prevent advertising, can you  
20 regulate the Internet? Do Native Americans living on

1 reservations have rights that Americans living off of  
2 reservations do not? Vast, vast sums of money are  
3 involved as well, so it's not exactly an academic  
4 exercise.

5           My point being that it is a tremendously  
6 complex issue, and I think that everyone who testifies  
7 or who appears for the Commission should be heard in  
8 that context. That every perspective needs to be  
9 listened to simply to get an understanding of what is  
10 going on, much less to determine who is right and who  
11 is wrong or what if anything can be done about it.  
12 That is my survey of the survey; simply to say this is  
13 something that is going to take a long time even to get  
14 a handle on as the Commission, but I think every  
15 perspective is certainly worth hearing.

16           CHAIRPERSON JAMES: Thank you. Any  
17 questions for Doug before we bring out our panelists,  
18 just as, as of a general nature or questions about this  
19 issue?



1                   Again Doug, thank you very much for that  
2 briefing material and for the excellent work of the  
3 staff.